

FILE COPY

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

AMY JOHNSON, L.P.N.,
RESPONDENT.

FINAL DECISION
AND ORDER
LS9502032NUR

The State of Wisconsin, Board of Nursing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Board of Nursing.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 5th day of May 1995.

Randa D. Mason, MD - Chair

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

In the Matter of Disciplinary Proceedings Against
AMY JOHNSON, L.P.N.
Respondent
Case No. LS 9502032 NUR

PROPOSED DECISION

The parties to this proceeding for purposes of s. 227.53, Stats., are:

Amy Johnson
121 South Jefferson Street
Stillwater MN 55082

Board of Nursing
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison WI 53708

A hearing was held in this matter on March 22, 1995. Respondent Amy Johnson did not appear, nor was any appearance or answer made in her behalf. The Division of Enforcement appeared by Attorney Steven M. Gloe.

The Division of Enforcement moved for a finding of default against Ms. Johnson on her failure to file an answer or appear at the hearing. On proof of service of the Notice of Hearing and Complaint, the motion was granted pursuant to s. RL 2.14, Wis. Admin. Code.

On the basis of the entire record in this proceeding, the Administrative Law Judge recommends that the Board of Nursing adopt the following Findings of Fact, Conclusions of Law and Order as its Final Decision in this matter.

FINDINGS OF FACT

1. Amy Johnson is licensed as a licensed practical nurse in the state of Wisconsin, pursuant to license number 31225, first granted on April 17, 1992.

2. Ms. Johnson's latest address on file with the Department of Regulation and Licensing is 121 South Jefferson Street, Stillwater, MN 55082.

3. On an exact date unknown, but on at least one occasion in July, 1993, Ms. Johnson used cocaine without a legitimate prescription or medical purpose for ingesting the drug.

CONCLUSIONS OF LAW

1. The Board of Nursing has jurisdiction in this matter pursuant to s. 441.07(1), Stats.
2. By consuming cocaine without a legitimate prescription or medical purpose, Ms. Johnson has violated s. N7.04(1), (2), and (15), Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS ORDERED that the license previously issued to Amy Johnson to practice practical nursing in the state of Wisconsin be and hereby is suspended indefinitely, until further Order of the Board of Nursing setting such conditions as it may deem appropriate for lifting the suspension of the license.

IT IS FURTHER ORDERED that the costs of the proceeding be imposed against Ms. Johnson, pursuant to s. 440.22, Stats.

OPINION

There is no question that use of cocaine raises substantial concerns about the judgment of the person using the drug, and that illicit use of controlled substances by a nurse is particularly troubling, given the access to controlled substances generally associated with the practice of nursing. The protection of public health, safety, and welfare requires reasonable guarantees that health care professionals not be impaired by improper use of any controlled substance.

The proposed Order here will permit Ms. Johnson to request the Board of Nursing to reinstate her license at any time, and it will permit the Board of Nursing to fully investigate the circumstances of Ms. Johnson's use of controlled substances, and to draft appropriate restrictions, if any are needed, to protect public health and safety while allowing Ms. Johnson to practice nursing.

Dated this 22nd day of March, 1995.

James E. Polewski

James E. Polewski

Administrative Law Judge

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN BOARD OF NURSING.

1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

MAY 9, 1995.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

In the Matter of Disciplinary Proceedings Against
AMY JOHNSON, L.P.N.
Respondent
Case No. LS 9502032 NUR

AFFIDAVIT OF COSTS, OFFICE OF BOARD LEGAL SERVICES

State of Wisconsin
County of Dane, ss.:

James E. Polewski, being first duly sworn on oath, deposes and says that

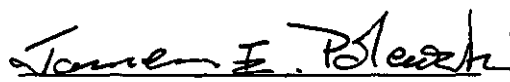
1. He is an attorney licensed to practice law in the state of Wisconsin, employed by the Office of Board Legal Services of the Department of Regulation and Licensing.
2. In the course of that employment, he was assigned to preside in this matter as Administrative Law Judge, and in the course of that assignment, he expended the following time and committed the Department to the payment of the following expenses:

Date	Activity	Time
3/22/95	Preside at hearing	10 minutes
	Draft proposed decision	40 minutes

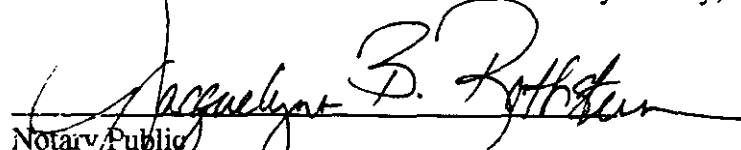
Total time, Administrative Law Judge: .8 hour

Expense, ALJ, 0.8 hour @ \$32.89/hour: \$26.31

Total Assessable Costs, Office Of Board Legal Services: \$26.31


James E. Polewski

Sworn to and subscribed before me this 9th day of May, 1995.


Notary Public
My Commission is Permanent.

STATE OF WISCONSIN
BEFORE THE BOARD OF NURSING

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

AMY JOHNSON, L.P.N.,
RESPONDENT

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AFFIDAVIT OF COSTS
94 NUR 132

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and am employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:

2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and

3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
09/07/94	Review file; draft stipulation	45 min.
02/01/95	Draft complaint and Notice of Hearing Schedule Hearing date	30 min.
03/22/95	Hearing preparation and attend hearing	30 min.
TOTAL HOURS		1 hour 45 min.

Total attorney expense for
1 hour and 45 minutes at \$41.00 per hour
(based upon average salary and benefits
for Division of Enforcement attorneys) equals: \$ 71.75

INVESTIGATOR EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
08/02/94	Initial review of case file; phone call; memo	30 min.
08/05/94	Draft letter	15 min.

30 min.

30 min.

1 hour 45 min.

\$ 36.75

\$ ~~108.00~~ ⁵ smg
108.50

Steven M. Gloe
Attorney
Division of Enforcement

Subscribed and sworn to before me this 16th day of May, 1995.

Notary Public
My Commission is permanent